

Message Text

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INFORM CONSULS FOR NARCOTICS COORDINATORS AND SAICS

E.O. 11652: N/A

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SUBJECT: NARCOTICS LAWS

REFERENCE: STATE 27870

1. RECENTLY SOME MISSIONS HAVE REPORTED THE DEVELOPMENT
OF NEW NARCOTICS LAWS OR THE FACT OF INDIVIDUAL COUNTRIES
CONSIDERING REVISION OF EXISTING NARCOTICS LAWS. WE
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CONSIDER THIS A COMMENDABLE DEVELOPMENT THAT SHOWS IN-
CREASING COMMITMENT TO THE COOPERATIVE EFFORTS OF INTERNA-
TIONAL NARCOTICS CONTROL AS WELL AS TO THE OBLIGATIONS OF
THE INTERNATIONAL NARCOTICS AGREEMENTS. STRONG LAWS
DIRECTED AT TRAFFIC IN ILLICIT DRUGS ARE NEEDED IN ORDER
TO ACHIEVE THE DESIRED COMMON GOALS OF SUPPLY REDUCTION
AND DRUG ABUSE CONTROL.

2. WE DO WISH TO EMPHASIZE, HOWEVER, THAT ANY DISCUSSIONS WITH FOREIGN GOVERNMENTS ABOUT REVISED NARCOTICS LAWS SHOULD STRESS THE NEED FOR CAREFUL DRAFTING IN ORDER TO RESULT IN STRENGTHENING STATUTES THAT ARE DIRECTED AT REDUCTION OF TRAFFICKING BUT, AT THE SAME TIME IN PROVIDING REASONABLE ATTITUDES TOWARD SIMPLE POSSESSION OF SMALL AMOUNTS OF DRUGS FOR PERSONAL USE. THIS MEANS THAT PRIORITIES FOR THE DIFFERENT TYPES OF NARCOTICS OFFENSES MUST BE ESTABLISHED AND REALISTIC DEFINITIONS OF TRAFFICKING AND OF SIMPLE POSSESSION MUST BE DETERMINED. IT ALSO IMPLIES REALISTIC APPROACHES TO DEFINITION OF POSSESSION LEVELS, AND DIFFERENCES IN PENALTIES. THIS IS ENTIRELY CONSISTENT WITH ARTICLE 36 AS AMENDED OF THE SINGLE CONVENTION ON NARCOTIC DRUGS, 1961.

3. IF IMPRECISE LAWS ARE DRAFTED WITHOUT ATTENTION TO THE AFOREMENTIONED AREAS, WE RUN THE RISK OF INCREASING THE NUMBERS OF AMERICAN PRISONERS IN FOREIGN JAILS WITH ALL OF THE ATTENDANT PROBLEMS OF POTENTIAL LEGAL AND HUMAN RIGHTS VIOLATIONS. IF THE LAWS ARE CAREFULLY DRAFTED, THEY CAN BE EFFECTIVE MEANS OF ACHIEVING THE ENDS OF NARCOTICS CONTROL. THE GOAL OF NARCOTICS CONTROL IS TO REDUCE HUMAN SUFFERING. IN DEVELOPING MEANS TO ACHIEVE THIS END, WE WISH TO AVOID ADDITIONAL FOREIGN POLICY PROBLEMS IN THE PROTECTION AND WELFARE AND HUMAN RIGHTS AREAS.

4. MOST AMERICAN PRISONERS IN THIS HEMISPHERE HAVE BEEN LIMITED OFFICIAL USE

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CHARGED WITH OFFENSES INVOLVING MARIHUANA AND COCAINE. IN RESPONSE TO CHANGING PUBLIC ATTITUDES TOWARD THE PERSONAL USE OF MARIHUANA, SEVERAL STATES IN THE UNITED STATES HAVE ENACTED LIBERALIZED LAWS CONCERNING PENALTIES FOR USE AND POSSESSION OF SMALL AMOUNTS OF MARIHUANA. IN EFFECT DECRIMINALIZING (BUT NOT LEGALIZING) MARIHUANA. THE EIGHT STATES OF OREGON, ALASKA, MAINE, CALIFORNIA, COLORADO, MINNESOTA, OHIO AND MISSISSIPPI HAVE, IN VARYING DEGREES, REMOVED SOME OR ALL CRIMINAL SANCTIONS FOR SIMPLE POSSESSION OF MARIHUANA, GENERALLY SUBSTITUTING CIVIL CITATIONS. FEDERAL LAWS CONCERNING DANGEROUS DRUGS OF ANY KIND HAVE NOT CHANGED. AT LEAST TWO CONGRESSIONAL COMMITTEES ARE EXAMINING THE CONCEPT OF MARIHUANA DECRIMINALIZATION.

5. REFTTEL QUOTED THE RECENT PRESIDENTIAL STATEMENT ON DRUG ABUSE WHICH IN PART STATED, QUOTE: WE MUST COMBINE DEEP COMPASSION FOR THE VICTIMS OF ADDICTION WITH A VIGOROUS ATTEMPT TO ELIMINATE THE WORLD SUPPLY OF ILLICIT

DRUGS THROUGH INTERNATIONAL COOPERATION. UNQUOTE.

6. SPECIFIC DRUG ABUSE PROBLEMS VARY FROM COUNTRY TO COUNTRY. WE DO NOT INTEND THAT OUR POLICY SHOULD ATTEMPT TO IMPOSE U.S. DRUG PRIORITY CONCERNS ON COUNTRIES IN WHICH DRUG ABUSE PRIORITIES ARE DIFFERENT. WHERE THEY ARE BASICALLY COMPATIBLE, WE SHOULD KEEP IN MIND U.S. DRUG PRIORITIES INTERESTS IN ORDER TO AVOID POTENTIAL PROBLEMS, SUCH AS INCREASING AMERICAN DRUG OFFENSE PRISONER LEVELS, AND ALSO TO MAINTAIN CONSISTENCY IN U.S. DRUG POLICIES BOTH DOMESTIC AND FOREIGN. ADDITIONALLY, THE DIFFERENCE IN POLICY TOWARD DRUG ABUSE (POSSESSION) AND TRAFFICKING SHOULD BE BORNE IN MIND. FEDERAL LAW ENFORCEMENT EFFORTS ARE FOCUSED ON HIGH-LEVEL TRAFFICKERS IN NARCOTICS DRUGS. THE SAME PRIORITY APPLIES TO OUR INTERNATIONAL NARCOTICS CONTROL EFFORTS.

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7. MEXICO IS CONSIDERING A POLICY CHANGE UNDER WHICH CHARGES WOULD BE DISMISSED AGAINST PERSONS CAUGHT WITH SMALL AMOUNTS OF MARIHUANA, COCAINE OR HEROIN, AND THEY WOULD BE DEPORTED TO THEIR HOME COUNTRY. MEANWHILE, MEXICO IS MAKING AN INCREASED EFFORT AGAINST TRAFFICKERS AS PART OF AN EXPANDED NARCOTICS CONTROL PROGRAM. GUATEMALA HAS RECENTLY STRENGTHENED ITS NARCOTICS LAWS WHICH WILL INCLUDE HARSHER PENALTIES FOR INTERNATIONAL AND DOMESTIC TRAFFICKING IN NARCOTICS. FOR INTERNATIONAL TRAFFICKING, THE SENTENCE WILL BE INCOMMUTABLE AND FINES WILL RANGE FROM DOLLARS 5,000 TO DOLLARS 50,000. THE GUATEMALAN LAW MAKES NO DISTINCTION BETWEEN TRAFFICKING AND POSSESSION AND NONE BETWEEN MARIHUANA AND OTHER ILLICIT DRUGS. THESE EXAMPLES REPRESENT TWO EXTREMES OF NARCOTICS LAW DEVELOPMENT AND POINT TO THE DESIRABILITY OF GENERALLY CONSISTENT INTERNATIONAL POLICIES TO THE EXTENT APPROPRIATE TO DRUG ABUSE AND TRAFFICKING PROBLEMS IN EACH COUNTRY.

8. WHENEVER AND WHEREVER APPROPRIATE, DISCUSSIONS ABOUT REVISED NARCOTICS LAWS WITH FOREIGN GOVERNMENTS SHOULD TAKE INTO CONSIDERATION THE ABOVE CAVEATS. SPECIFIC LEGAL ADVICE WILL BE AVAILABLE FROM WASHINGTON WHEN REQUESTED.

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